IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. NO. 3182 /2005

Petitioner : Lalit Chandra Sahu S/o Late Bhushan Lal Sahu aged about 52 years, R/o Village Banpacheri, Tahsil & Distt. Mahasamund (C.G.)

P.R. No. 3312/05
Presented by Shri S.S. Rajpoot
dated 14/7/05

VERSUS

Respondents

1. State of Chhattisgarh, Through Secretary, Department of Forest, D.K.S. Bhawan, Raipur (C.G.)
2. Conservator of Forest Raipur Circle Raipur (C.G.)
3. Authorised Authority, S.D.O. (Forest) Saraipali, Distt. Mahasamund (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 3182/ सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25-7-2005

Mr. Sachin Singh Rajput, counsel for the petitioner.

Mr. Yashwant Singh Thakur, Govt. Advocate for the State/ respondents.

Heard both the counsel on admission.

As the question involved in this matter is very small, therefore, on the consent of learned counsel for the parties this matter is being finally disposed of, at the admission stage itself.

By the instant writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the legality, propriety and correctness of order dated 8-6-2005 passed by the 11th Additional Sessions Judge (Fast Track Court), Raipur, in Criminal Revision No.456/2000, whereby the learned Additional Sessions Judge rejected the revision filed by the petitioner herein on the ground that the revision is against the interim order, therefore, this revision does not lie. However, the learned Additional Sessions Judge passed an order in para 12 of the impugned order that on production of the tractor trolley in question before the Conservator of Forests, the Conservator of Forests should decide the appeal within 30 days on merits, in accordance with law.

The grievance of the petitioner is that the learned Additional Sessions Judge ought to have decided the revision on merits, instead of rejecting treating the same as an interim order.

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आदेश पत्रक

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner submits that the order of the Conservator of Forests was consequential order, therefore, revision under Section 52-B of the Indian Forest Act, 1927, lies before the Sessions Court.

On the other hand, learned Govt. Advocate argued that as per the provisions of sub-section (4) of Section 52-A of the Indian Forest Act, 1927, the order in question was interim in nature, therefore, the revisional Court has rightly rejected the revision.

In this regard, if we look into the provisions of sub-section (4) of Section 52-A of the Indian Forest Act, 1927, it envisages that "*the Appellate Authority may pass such orders of "interim" nature for custody, preservation or disposal (if necessary) of the subject matter of confiscation, as may appear to be just or proper in the circumstances of the case*".

The property in question, tractor trolley of the petitioner was found carrying forest wood (Beeja wood) and upon that the said wood along with the tractor trolley was seized and during enquiry, the said tractor trolley was released on Supurdginama in favour of the petitioner. However, after enquiry in accordance with law, the authorized officer reached to the conclusion that the tractor trolley in question was found carrying forest wood, and accordingly, he passed order for confiscation of the said tractor trolley under Section 52 of the Indian Forest, Act, 1927. Now, discretion

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

as per the provisions of sub-section (4) of Section 52-A of the Indian Forest Act, 1927, has been given to the appellate authority for interim custody of the property as may appear to be just and proper in the circumstances of the case, and the appellate authority directed the petitioner to produce the tractor trolley, thereafter, only the appeal will be heard. The Supurdginama was subject to further orders of the authority. Now, the appellate authority has directed the petitioner to produce the tractor trolley. The property was released on Supurdginama merely on the ground that during the pendency of proceedings of the appeal, the property should not become junk. Taking care of such situation, the learned Additional Sessions Judge has already directed the petitioner to surrender the tractor trolley within 15 days and the appellate authority has been directed to decide the appeal within one month. Therefore, the learned Additional Sessions Judge has taken care regarding the property in question that it should not become junk during the pendency of the appeal.

In the circumstances, without going into the question whether the revision was maintainable against the impugned order or not, I am of the opinion that the order in question cannot be treated as without jurisdiction or that the Additional Sessions Judge has committed any irregularity in passing the impugned order.

Therefore, I do not find any substance in this writ petition. Accordingly, the petition is dismissed. However, on production of the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	tractor trolley, the learned appellate authority shall decide the appeal in accordance with law, as per the direction given by the Additional Sessions Judge within 15 days from the date of surrender of the tractor trolley. In view of this order, M.(W.)P.No.2665/2005 and I.A.No.6201/2005 stand disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C.Bhadoo** **Judge**	

Soma